

## REMARKS

In the Office Action, claims 22, 24, 26, 29, 35, and 36 are objected; claims 23, 25, 30, 32, 33, 34, and 37 are rejected under 35 U.S.C. § 112, second paragraph; and claims 25 and 26 are rejected under 35 U.S.C. § 112, first paragraph. Claims 20, 22, 23, 26, 29, 30, 32, and 33 have been amended; and claim 37 has been canceled. Applicants believe that the rejections have been overcome in view of the amendments and for the reasons set forth below.

At the outset, the Patent Office alleges that the present application fails to fully comply with the requirements of 37 C.F.R. § 1.821-1.825. More specifically, the Patent Office alleges that the sequences as disclosed in Figures 1-3 should be included in the Sequence Listing as filed.

In response, Applicants are submitting herewith a copy of a substitute Sequence Listing that includes the sequences as disclosed in Figures 1-3. Applicants note that a print copy of the substitute Sequence Listing is attached herewith and further that an amendment directing its entry into the specification has been made as previously discussed. Applicants further note that they are concurrently submitting herewith a separate submission of the substitute Sequence Listing that includes the print copy as submitted herewith in addition to a copy in computer-readable form. Applicants state that the content of the paper and computer-readable form copies of the submitted Sequence Listing are the same and further believe that no new matter has been added. Accordingly, Applicants respectfully submit that the requirements pursuant to the 37 C.F.R. § 1.821-1.825 have been satisfied.

The Patent Office further alleges that the specification is objected. More specifically, the Patent Office alleges that the specification is confusing with respect to the Sequence Listing since SEQ ID NO: 22 is purportedly not disclosed in the specification and/or claims. Applicants believe that this objection is improper. Indeed, the specification has been amended to include the Sequence Listing that is attached herewith and that includes SEQ ID NO: 22. Accordingly, Applicants respectfully request that the objection to the specification be withdrawn.

In the Office Action, claims 22, 24, 26, 29, 35, and 36 are objected. In response, claims 22, 26 and 29 have been objected for alleged informalities. As previously discussed, these claims have been amended and thus are believed to have addressed the objections as alleged on pages 4 and 5 of the Office Action. Applicants note for the record that these changes were made

for clarification purposes and not intended to disclaim or narrow any subject matter in view of same.

With respect to the objection to claims 24, 35 and 36, the Patent Office alleges that these claims are objected to for depending from a rejected base claim. Claim 24 depends from claim 23; claim 35 depends from claim 33; and claim 36 depends from claim 33. Applicants believe that the subject matter as defined in claims 23 and 33 should be allowable as described in greater detail below. Thus, Applicants believe that the objections to claims 24, 35 and 36 be withdrawn.

In the Office Action, claims 23, 25, 30, 32, 33, 34, and 37 are rejected under 35 U.S.C. § 112, second paragraph. In response, claims 23, 30, 32, and 33 have been amended. Further, claim 37 has been canceled without prejudice or disclaimer. Thus, Applicants respectfully request that the rejection under 35 U.S.C. § 112, second paragraph, be withdrawn with respect to same.

Regarding claim 25, Applicants believe that this rejection is improper. Indeed, the specification provides that the promoter region may also lack any catabolite responsive elements so that no repression in the presence of a particular carbon source may be affected. See, specification, page 3, lines 20-21. Further, an example of a catabolite responsive element is provided on page 8 of the specification as even recognized by the Patent Office. Thus, Applicants believe that one skilled in the art would consider the scope and content of the subject matter as defined in claims 25 to be clear and definite in meaning. Therefore, Applicants believe that claim 25 satisfies the requirements pursuant to 35 U.S.C. § 112, second paragraph. Accordingly, Applicants respectfully request that the rejection with respect to claims 23, 25, 30, 32, 33, 34, and 37 pursuant to 35 U.S.C. § 112, second paragraph, be withdrawn.

In the Office Action, claims 25 and 26 are rejected under 35 U.S.C. 112, first paragraph. At the outset, claim 26 has been amended and thus Applicants believe that the rejection under 35 U.S.C. § 112, first paragraph, has been overcome.

With respect to claim 25, Applicants believe that this rejection is improper. Again, the specification provides specific examples of catabolite responsive elements and further provides that the promoter region may also lack any catabolite responsive elements so that no repression in the presence of a particle carbon source may be affected. Applicants believe that the specification, such as described above, provides sufficient detail such that one skilled in the art

should be able to practice the claimed invention without undue experimentation. Therefore, Applicants believe that the requirements pursuant to 35 U.S.C. § 112, first paragraph, have been satisfied.

Accordingly, Applicants respectfully request that this rejection be withdrawn.

For the foregoing reasons, Applicants respectfully submit that the present application is in condition for allowance and earnestly solicit reconsideration of same.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY \_\_\_\_\_

Thomas C. Basso  
Reg. No. 46,541  
P.O. Box 1135  
Chicago, Illinois 60690-1135  
Phone: (312) 807-4310

Dated: December 10, 2003